S.B. CIVIL WRIT PETITION NO.1646/2004

Shambhu
VS
Civil Judge & Ors.

DATE OF ORDER: 22.3.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. Amit Mehta, for the petitioner.
Mr.Pankaj Sharma, for the respondents.

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Heard learned counsel for the parties.

It appears that petitioner could not appear on the date when the case was fixed for the evidence of the plaintiff-petitioner. The petitioner submitted an application for reopening of his evidence, but the trial court observed that petitioner could not make out a case of review of earlier order as petitioner was granted three opportunities to produce the evidence on earlier occasions.

After going through the facts of the case,I do not find that the trial court has exercised it discretion judiciously. The trial court should have given at least one more opportunity to the petitioner to produce the evidence looking to the facts of the case.

In view of the above, the writ petition of the petitioner is allowed on payment of cost of Rs.2,000/- and the order dated 5.2.2004 is set aside. The petitioner shall have opportunity to produce evidence only on payment of the above cost to the respondent-defendant by the petitioner on the date fixed by the trial court and petitioner shall complete his evidence within two occasions only.

(PRAKASH TATIA), J.

c.p.goyal/-.